

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7366

BILL NUMBER: HB 1264

NOTE PREPARED: Feb 20, 2004

BILL AMENDED: Feb 19, 2004

SUBJECT: Interlock Ignition Devices.

FIRST AUTHOR: Rep. Dvorak

FIRST SPONSOR: Sen. Wyss

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill: (1) makes tampering with an ignition interlock device a Class B misdemeanor under certain circumstances; (2) requires a court in a county having an ignition interlock program to prohibit a repeat OWI offender from operating a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device; (3) provides that a court may order installation of an ignition interlock device as: (A) a condition of certain deferred prosecution programs; (B) an alternative to an administrative driver's license suspension; and (C) a condition of participation in a post-conviction alcohol abuse deterrent program; (4) requires a court requiring installation of an ignition interlock device to notify BMV, and requires BMV to record this requirement in the person's driving record.

Effective Date: July 1, 2004.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Penalty Provision:* (1) This part increases the penalty for a person who knowingly or intentionally tampering with an ignition interlock device from a Class B infraction to a Class B misdemeanor. This bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. Currently, the maximum judgment for a Class B infraction is \$1,000, which is deposited into the state General Fund, while the maximum fine for a Class B misdemeanor is \$1,000, which is deposited into the Common School Fund. Besides the issuance of fines, the sentencing court may assess a court fee if a guilty verdict is entered. The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court.

Part (3)- Presently, it is unclear if this provision will jeopardize federal National Highway Traffic Safety

Administration (NHTSA) funds. According to the Regional Administrator of NHTSA, there is the potential of a loss of approximately \$13.8 M in Section 164 Repeat Offender Transfer funds, however this is pending a legal review by NHTSA. Further, according to the Director of the Drug Free/Impaired/Dangerous Driving Division of the Indiana Criminal Justice Institute, this provision removes both the “hard 30-day sentence for refusal of a drug or alcohol test and the “hard 90-day sentence for failure of a drug or alcohol test, thereby triggering the potential loss of the NHTSA funds.

Explanation of Local Expenditures: *Penalty Provision:* (1) Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: *Penalty Provision:* (1) Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. Twenty-seven percent of court fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the court fee while the city or town general fund receives 25%.

State Agencies Affected: Department of Correction; Criminal Justice Institute; Department of Transportation.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs’ Association Jerry McCorry, Director of Drug Free/Impaired/Dangerous Driving Division of the Criminal Justice Institute, 317-232-4220; Donald McNamara, Regional Administrator of Highway Traffic Safety Administration, Chicago office, 708-503-8991.

Fiscal Analyst: James Sperlik, 317-232-9866.